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International Convention on
the Elimination
of all Forms of
Racial Discrimination

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Fifty-eighth session
6-23 March 2001

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION

Concluding observations of the Committee on the Elimination of Racial Discrimination

GEORGIA

1. The Committee considered the initial report of Georgia (CERD/C/369/Add.1), which was due on 2 July 2000, during its fifty-eighth session at its 1453rd and 1454th meeting (CERD/C/SR.1453 and CERD/C/SR.1454), held on 15 and 16 March 2001. At its 1462nd meeting, held on 22 March 2001, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the initial report submitted by the State party and the additional oral information provided as well as the opportunity thus offered to initiate a dialogue with the State party. It expresses its satisfaction with the quality of the report and its conformity with the reporting guidelines of the Committee. It notes as very positive the fact that the State party submitted the report within one year of ratification.

B. Factors and difficulties impeding the implementation of the Convention

3. The Committee recognizes that Georgia has been confronted with ethnic and political conflicts in Abkhazia and South Ossetia since independence. Due to the lack of governmental authority, the State party has difficulty in exercising its jurisdiction with regard to the protection of human rights and the implementation of the Convention in those regions.

4. In addition, the situations in South Ossetia and Abkhazia have resulted in discrimination against people of different ethnic origins, including a large number of internally displaced persons and refugees. On repeated occasions, attention has been drawn to the obstruction by the Abkhaz authorities of the voluntary return of displaced populations, and several recommendations have been issued by the Security Council to facilitate the free movement of refugees and internally displaced persons.

C. Positive aspects

5. The Committee notes with satisfaction that, notwithstanding the difficulties resulting from conflicts in Abkhazia and South Ossetia and the challenges linked to the period of political transition, the State party has made important progress in the area of legislative reform. It notes with interest that Georgia has ratified a great number of international and regional human rights instruments.

6. The Committee also notes with satisfaction that, upon ratification, the International Convention on the Elimination of All Forms of Racial Discrimination, like other international instruments, became an integral part of the State's domestic legislation and can be invoked directly before the courts.

7. The Committee welcomes the establishment of various institutions for the promotion and protection of human rights, such as the Ombudsman and the Committee for Human Rights and Ethnic Relations. It notes with special interest the creation of the Committee on Civil Integration, which deals specifically with minority concerns. In this connection, the Committee notes with interest the statement of the delegation during the dialogue that the Committee on Civil Integration is developing a concept of civil integration in Georgia, which would include several laws concerning national minorities, such as language rights. The Committee equally welcomes the creation of human rights commissions in many sakrebulo (local elective bodies).

D. Concerns and recommendations

8. The Committee notes that the Constitution takes into account the provisions of article 2 of the Convention. However, the Committee regrets the lack of information provided on measures for the effective implementation of the Convention which the State party is expected to take. Furthermore, the Committee regrets that, although the report notes the condemnation of racial discrimination in all its forms by the State party, racial segregation and apartheid are not expressly condemned as stipulated by article 3 of the Convention.

9. While noting the information that the Constitution contains provisions to ensure the development and the protection of minorities and to guarantee their full and equal enjoyment of human rights and fundamental freedoms, the Committee expresses its concern at the failure of Parliament in 1994 to adopt a special law on national minorities. Taking note of the information provided by the delegation as to the aims of the Committee on Civil Integration in this regard, the Committee encourages the State party to continue to provide its utmost support to this process and to adopt legislation on minorities.

10. Concern is expressed that the legislation currently in force in Georgia does not fully cover the requirements of article 4 of the Convention. The Committee is concerned at the absence of provisions explicitly banning the advocacy of national, racial and religious hatred that constitutes incitement to discrimination, as well as racist propaganda and organizations. The Committee considers that the national legislation currently in force is not sufficient to comply with the requirements of article 4 (b), as the latter covers the offence of promoting and inciting racial discrimination, which may fall short of "fomenting ethnic, local, religious or social strife" as provided for in article 5 (2) of the State party's law on political associations of citizens. The Committee emphasizes that, in the absence of the establishment of racial discrimination as a specific offence, it might not be punishable and would be difficult to prosecute. The Committee recommends that the State party take steps to ensure that national legislation is in full conformity with article 4 of the Convention.

11. With regard to article 142 (1) of the new Criminal Code, which deals with the infringement of equal rights on account of, inter alia, race, skin colour, language, sex, national, ethnic, social or class origin, the Committee is concerned that this provision is qualified by the requirement that the infringement of equal rights result in a substantial violation of human rights. The Committee notes the statement by the delegation that serious consideration should indeed be given to reviewing this provision and encourages the State party to initiate the necessary steps.

12. The Committee recommends that the State party include in the next periodic reports statistics on cases in which the relevant provisions of the Civil and Criminal Codes have been applied. The Committee reminds the State party that the absence of complaints and legal action by victims of racial discrimination could possibly be an indication of a lack of awareness of available legal remedies or a result of the absence of relevant specific legislation. It is therefore essential to provide for the relevant provisions in the national legislation and to inform the public of the availability of all legal remedies.

13. In the context of the implementation of article 5, the Committee expresses its concern at the under-representation of ethnic minorities in Parliament. The Committee notes with concern the barriers to participation of minorities in political institutions, for instance with regard to the limitation on the participation of minorities in local executive bodies due to a lack of knowledge of the Georgian language. The Committee recommends that the State party take all necessary steps in order to increase the representation of national minorities in Parliament and in local bodies.

14. The Committee notes the commitment undertaken by the State party to repatriate Meskhetians who had been expelled from southern Georgia to the Central Asian Republics of the Soviet Union. The Committee recommends that the State party take the necessary measures to facilitate the return of Meskhetians and the acquisition of citizenship by them.

15. Expressing its satisfaction at the positive measures taken by the State party to establish national human rights institutions, the Committee requests that, in its next periodic report, the State party provide additional information on the role, responsibilities and achievements of national institutions such as the Commission on Civil Integration, the Committee for Human

Rights and Ethnic Relations and the Ombudsman in monitoring treaty obligations and in particular with regard to activities for the integration of minorities and the promotion of human rights.

16. The Committee notes the absence of provisions with regard to stateless persons and encourages the State party to take appropriate measures to remedy this situation.

17. The Committee recommends to the State party that its reports and the present concluding observations be widely distributed to the public. The Committee also recommends the dissemination of the text of the Convention and the organization of education and training programmes aimed at all sectors of society, especially law enforcement officials, regarding human rights in general and the provisions of the Convention in particular.

18. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and the Committee recommends that the possibility of making such a declaration be considered.

19. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of State Parties.

20. The Committee also recommends that the State party submit its second periodic report jointly with its third periodic report, due on 2 July 2004, and that it address all of the points raised during the consideration of the initial report.